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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[SRC 02 267 53707]

Office: TEXAS SERVICE CENTER Date: DEC 17 2007

IN RE: Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

for
Handwritten signature of Robert P. Wiemann in cursive.
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, counsel for the applicant states in full: "Additional evidence was not available to applicant." Counsel does not submit any additional evidence in support of the appeal. Further, counsel indicated that a brief and/or additional evidence would be submitted within 30 days from the date of the appeal. To date, however, no additional evidence has been submitted and the record must be considered complete.

An appeal that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee accepted will not be refunded. 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director's decision of denial, dated November 5, 2003, clearly advised the applicant that any appeal must be properly filed within thirty days after service of the decision. 8 C.F.R. § 103.3(a)(2)(i). Coupled with three days for mailing, the appeal, in this case, should have been filed on or before December 8, 2003. The appeal was received at the Texas Service Center on December 23, 2003.

It is noted that the applicant has also provided insufficient evidence to establish his qualifying continuous residence and continuous physical presence during the requisite time periods. The record indicates that the applicant was apprehended by the United States Border Patrol on May 26, 1999, while attempting entry into the United States near Laredo, Texas. The applicant was subsequently placed in removal proceedings under the name [REDACTED] and was ordered removed from the United States by an Immigration Judge on April 18, 2002. The applicant's apprehension on May 26, 1999, would indicate that he has not met the requirements of continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 15, 1999. The applicant, thereby, has also failed to establish that he has met the criteria as described in 8 C.F.R. § 244.2(b) and (c).

Based upon the applicant's failure to file a timely appeal, the appeal will be rejected.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The appeal is rejected.